THE HONOURABLE SRI JUSTICE V.ESWARAIAH

WRIT PETITION No:25919 of 2006

DATED:24-07-2007

BETWEEN:

Avinish Tiwari.

..... PETITIONER

AND

The Station House Officer,
Madhapur Police Station,
Hyderabad & another.

.....RESPONDENTS

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ORDER:

Heard learned counsel appearing for the petitioner as well as the learned Government Pleader for Home appearing for the respondents.

2. Petitioner seeks a writ of mandamus declaring the action of the 1st respondent herein in registering the complaint in Cr.No.475 of 2006, as illegal, and arbitrary.

3. It is the case of the petitioner that 2nd respondent filed a complaint before the 1st respondent stating that hundred and ten members of the 2nd respondent Association are the registered owners having valid sale deeds executed in their favour by their vendors who are the original pattadars. It is stated that one JVG Finance Limited and its group went into liquidation in 1998 as per the orders of the Delhi High Court restraining the District Registrar, Kukatpalli not to register any plots in the lay out relating to land in Sy.Nos.94, 96, 97, 189 of Kondapur village in Madhapur Milestone layout in which JVG claims to have right, directly or indirectly. It is further stated that the pattadars of the said land cancelled the GPA given to the JVG group vide registered Doc.Nos.14, 15, 20, 31, 42 of 2002 but the said three firms represented by the petitioner in collusion with JVG group fabricated the agreement of sale-cum-settlement deeds, dated 06-

05-1997, and managed to get those settlement deeds validated from the District Registrar, Kukatpally vide Document Nos.8254 to 8257/AR/2005, dated 24-12-2005, 295/AR/2006, dated 12-01-2006, 1647/AR/2006, dated 25-02-2006, and 4463/AR/2006, dated 12-05-2006.

4. It is the case of the 2nd respondent/complainant that the petitioner has sold the plots of seventeen members of the 2nd respondent Association by cheating them as well as the original buyers. It is further stated that the petitioner's company have also put armed guards at site and not allowing the members of the complainant to enter the layout or even display sign boards of plot owners to prevent more innocent buyers being cheated. It is stated that the 2nd respondent filed petition before the Delhi High Court for cancellation of the said sale deeds and also filed written information, dated 13-11-2006, based on which a case in Cr.No.475 of 2006 has been registered under Section 420 IPC.

5. Learned counsel appearing for the petitioner submits that the 2nd respondent/complainant is neither the owner nor the purchaser of the said property and therefore, it cannot be said that the 2nd respondent was cheated by the petitioner.

6. It is the case of the 2nd respondent that the owners and individual members who have purchased the plots have formed the said Association and therefore, written intimation has been filed by the Vice-President of the Association based on which police

registered the case.

The question that arises for consideration is:

Whether the complaint discloses a cognizable offence leading to registration of criminal case?

> *Under Section 154 Cr.P.C. every information relating to commission of cognizable offence, if given orally to an officer-in-charge of a police station, shall reduced to writing, shall be signed by the person giving it, and the substance thereof shall be entered in a book to be kept by such officer in such form as the State Government may prescribe in this behalf; and copy of such information as recorded under sub-Section (1) shall be given forthwith, free of cost, to the informant.*

7. I am of the opinion that when the written information is furnished about the commission of cognizable offence it is the duty of the 1st respondent-Station House Officer to register a case and investigate the same.

8. Learned counsel appearing for the petitioner contends that the ingredients of Sections 415 and 420 IPC have not been made out and therefore the contents of the entire complaint, even accepted as it is, do not constitute an offence under Section 420 IPC.

9. I am unable to accept the above contention. Merely because the complainant has not furnished all the material particulars it cannot be said that the petitioner has not committed any

cognizable offence. A bare reading of the complaint goes to show that for the land in Sy.No.94,96, 97, 189 of Kondapur village in Madhapur Milestone layout was made pursuant to the GPA given to M/s JVG group vide registered document in 2002 and the said JVG group went into liquidation as per the orders of the Delhi High Court and therefore, the said JVG group has no right or authority to sell the said land. It is stated that the power of attorney holder JVG is not entitled to sell the said land by agreement of sale-cum-settlement deeds and therefore, the said sale deeds are illegal and contrary to the liquidation order of the Delhi High Court. Whether the GPA given in favour of the JVG group was cancelled or not and whether there were orders of the Delhi High Court liquidating the JVG group are all the matters to be investigated by the police. Mere based on the contents of the written information it cannot be said that the petitioner has not committed an offence under Section 420 IPC. If the JVG group is not entitled to enter into the agreement of sale-cum-settlement deeds in favour of the petitioner the action of the petitioner amounts to cheating the original owner as well as the purchasers. Therefore, I am of the opinion that unless all the relevant documents after thorough investigation have been considered by the criminal Court who is entitled to receive them as exhibits this Court cannot express any opinion at this stage.

10. Having regard to the above facts and circumstances of the case, I am of the opinion that the First Information Report cannot be quashed at this juncture.

11. Accordingly, Writ Petition is dismissed. No order as to costs.

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V.ESWARAIAH,J

24th July, 2007.
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